

**Answers to Questions Regarding Requests for Proposals
Tennessee Education Lottery Corporation**

October 13, 2003

I. ONLINE LOTTERY GAME SERVICES AND LOTTERY GAMING SYSTEM AND SERVICES RFP

VENDOR A

<u>No.</u>	<u>Section</u>	<u>Page¹</u>	<u>Question</u>
1.	1.1	5	Does the TELC anticipate that one of the monitor games might be Keno? <i>The TELC does not know at this time.</i>
2.	2.11.3	6	(a) How much lead-time will the Evaluation Committee give vendors concerning the announcement of its plans and scheduling for site visits and/or oral presentations? <i>As much as possible, but 24 hours at a minimum.</i> (b) Will the TELC provide lists of specific goods and services it will wish to see or have demonstrated? <i>Yes, prior to the visit.</i> (c) Does the TELC plan to require performance benchmark demonstrations as part of its plan for site visits and/or oral presentations? <i>To be determined.</i>
3.	2.11.4	7	Can the TELC indicate the weights of the evaluation factors? If not, Can the TELC at least indicate the overall technical and price weights or percentages? <i>This information will be made available on the TELC's website immediately prior to the opening of the Proposals.</i>
4.	2.13	8	a) When does the TELC expect to conduct the site visit/demonstrations? <i>To be determined.</i> b) Can the TELC indicate at this time the likely location for the site visit/demonstration of the system and equipment? Will it be at the

¹ Page numbers indicated in this document appear as submitted in Vendors' written questions and may not reflect the correct page numbers of the revised request for proposal documents. Similarly, the text of Vendor questions appears in this document as submitted in the Vendors' written questions and has not been revised.

vendor's headquarters or at the TELC's headquarters or at a project site?

To be determined.

5. 2.13 8 The RFP asserts that Contract Execution would occur on December 2, 2003, just eight calendar days after the Lottery publishes a Notice of Intent to Award a Contract. We believe this to be an unreasonably short period of time for this important step to be concluded properly, especially as the Thanksgiving holiday is included in the eight days.

- a) While recognizing the Lottery's right to change these dates, what assurances are there to the public and any unsuccessful vendors that the TELC will reasonably be able to keep its announced commitment to December 2, 2003 as the date of Contract Execution?

The TELC's intent is to execute the definitive Contract with the Successful Vendor by December 2, 2003. If the TELC is unable to meet that goal, the TELC intends to execute an interim contract with the Successful Vendor by December 2, 2003 that would be in effect until the execution of the definitive Contract.

- b) If the Contract is executed at a date subsequent to the committed date, will the instant and online system start-up dates specified in Section 1.2 be adjusted by a corresponding period of time?

No.

6. 3.8 10 Since the RFP makes no mention of any contract extension, we assume that there will be no extensions granted by the Tennessee Lottery for any reason. Is this assumption correct?

Contract extensions are not anticipated.

7. 3.9 10 How will the Contractor be compensated in the event the TELC elects to continue to use the systems, software and equipment the Contractor has provided in connection with the Contract after that Contract has expired?

All compensation is determined in the base price.

8. 3.9 10 With respect to proprietary materials:

- a) What limits are there on the range and scope of the modifications that may be required and the amount of work they would entail?

None, unless specified in the Successful Vendor's Proposal.

- b) How will the Contractor be compensated in the event the TELC elects to require the Contractor to "modify such proprietary materials and to create derivative works in any manner the TELC deems necessary?

Proposals should address all compensation for all products and

services that may be provided pursuant to the Contract.

9. 3.19 12 What level of reduction in the performance bond does the TELC contemplate?

The TELC reserves the right to reduce the amount of the required performance bond (or other performance collateral) as much or as little as it determines in its sole discretion.

10. 3.21 12/13 Vendors cannot adequately provide pricing as part of their proposals without knowledge of all the costs they may incur. Without such knowledge, Vendors may need to build in protection against unspecified costs, with the result that the Lottery may pay more than it needs to for the service it receives. Therefore, will the Lottery specify the conditions and amounts of the liquidated damages it would assess for each of the circumstances listed in this paragraph?

As stated in the RFP, the TELC is requesting that each Vendor propose such conditions to, and such amounts of, liquidated damages for the circumstances listed in the RFP as the Vendor believes will protect the TELC adequately.

11. 4.14 17 Will any points be given for use of minority-owned businesses, especially if such use exceeds the minimum participation goal of 15 percent? If so, what are the maximum number of points that a vendor can receive?

See answer to Question 3, above.

12. 5.1.1.1 21 a) What will be the cost of leasing space from the TELC in its headquarters?

To be determined.

- b) What utilities or equipment would be included in the leasing costs? If any utilities and/or equipment are not included, what would those be?

To be determined.

- c) May the Successful Vendor use TELC headquarters space for lottery-related activities such as consumable warehousing and bench repair of terminals?

To be determined.

13. 5.1.1.1 21 Can the location of the backup data center be outside the State of Tennessee?

Yes.

14. 5.1.1.1 21 This section states, "The terminal response time must not exceed three (3) seconds per wager measured from the time a wager is entered until the ticket is cut." Does this requirement include multi-panel (multi-wager) tickets as well as single-panel tickets?

Yes.

15. 5.1.1.1 21 We assume that the reference to 4,000 full service online retailer terminals at start-up in this section means that a minimum of 4,000 full service online retailer terminals must be connected to the host system and operating as of the start of operations.

- a) Is this assumption correct? If not, what is the minimum amount of terminals the Contractor will be permitted to start with.

At instant ticket start-up, the Successful Vendor will be required to provide online retailer terminals in all locations of retailers that have been approved by the TELC two weeks prior to instant ticket start-up. The TELC's goal is to have approved retailers with 4,000 locations two weeks prior to instant ticket start-up. If the TELC does not have 4,000 approved retailer locations as of such date, the Successful Vendor will not be required to provide 4,000 online retailer terminals as of instant ticket start-up. At instant ticket start-up, the TELC will accept a mix of mid-range and full service retailer terminals. At online ticket start-up, the Successful Vendor must be capable of providing full service retailer terminals in each location approved by the TELC two weeks prior to online ticket start-up. The TELC reserves the right to specify which retailer locations must have full service retailer terminals and which retailer locations may have mid-range retailer terminals.

- b) Will there be liquidated damages for failure to start with the specified minimum number of terminals online? If so, it is important for vendors' costing to know the amount of liquidated damages that could be assessed. Therefore, what amount of liquidated damages will be assessed by the Lottery in this instance?

See answer to Question 10, above.

16. 5.1.1.1 21 We assume that the start-up date for inclusion of the full service online retailer terminals is February 10, 2004, so that they may be available to perform all required instant game functionality. Is this assumption correct?

See answer to Question 15a, above.

17. 5.1.2.1 23 This section states, "All terminals must allow for fixed length tickets only."

- a) Does the fixed length requirement apply to reports as well?

No.

- b) Will the TELC consider variable length tickets?

No.

18. 5.1.2.1 24 This section describes retailer terminals but makes not mention of the type of ticket printer required while Attachment F specifies a thermal paper

requirement. Are we to understand that a thermal printer in the retailer terminal is a requirement or may an impact printer be bid?

Yes, Vendors may not include impact printers in their Proposals.

19. 5.1.5.4 27 The RFP requires a description of the ability of the Retailer Accounting and Billing System to interface with “other modules.” What are the kinds of system modules that the Retailer Accounting and Billing System may be required to interface with?

Systems such as the general ledger system, sales reporting system and retailer website.

20. 5.1.5.7 28 Must all sales information be available in real time?

No, but at a minimum, this information must be available on a daily basis.

21. 5.2.7 30 What is the anticipated breakdown of retailer categories? Realizing the TELC has not picked all retailers yet, is there, nevertheless, a “desired” mix of trade styles?

This information is currently unavailable.

22. 5.3 32 Bullet 13 - “All commands executed by system operators and any system warning or problem messages must be logged immediately on a numerically sequenced console log file, a copy of which” Is it acceptable to supply a chronological file that is time and date stamped down to the second on WORM media rather than a numerically sequenced file?

Yes, but the Successful Vendor must insure that the TELC is able to review and analyze the data without purchasing additional hardware or software.

23. 6.2 34 We assume that we can also list any offered options not included in the base cost separately in the Cost Proposal. Is that assumption correct?

Yes.

24. 6.5 35 Can the TELC provide an approximate number of portable terminals that it expects to require for promotional events?

The TELC asks you to provide your solution.

VENDOR B

1. Section 2.5 – Proposal Submission, page 4.

Are Vendors to submit ten (10) copies of the Cost Proposal?

Vendors should submit only one copy of the cost proposal, which must be enclosed in a separate, sealed envelope.

2. Sections 3.6 and 4.5 – Background Investigations, pages 9 and 15.

Is the TELC or the Successful Vendor responsible for the cost of Background Investigations? If the Successful Vendor is responsible for these costs, please provide an estimate of such costs.

The TELC will pay this cost.

3. Section 3.8 – Term of Contract, page 10.

Will TELC amend this section of the RFP to change the “commencing on February 10, 2004...” to “commencing on April 10, 2004...” to provide the Successful Vendor with seven complete years of compensation?

No.

4. Section 3.9 – Ownership of Materials and Rights of Use, page 10.

Will the TELC please confirm that the Successful Vendor will own all intellectual property rights to the systems, programs, source code and other information proprietary to it not developed specifically for or on behalf of the TELC?

Yes.

Also, the intellectual property rights resident in the systems and equipment to be provided to the TELC forms the core of the Successful Vendor’s business. To grant so broad a license as requested in the third paragraph of this section requires the Successful Vendor to relinquish control of such intellectual property rights and, therefore, its business. Will the TELC be willing to delete the following:

“and the Successful Vendor irrevocably grants the TELC the necessary rights and authority to modify such proprietary materials and to create derivative works in any manner the TELC deems necessary. It is the intent of the TELC that it have control over all such proprietary materials in a manner consistent with ownership thereof.”

No.

5. Section 3.11 – Trademark and Service Mark Search and Registration, page 10.

Trademark searches are not necessary for on-line lottery games. Will the TELC be willing to delete this section?

No.

6. Section 4.5 – Background Investigation, page 15.

Requiring “Authorization for Investigation” and “Consent Form” to be completed by stockholders known to own beneficially one percent (1%) or more of a corporation’s securities is an extremely difficult requirement for corporations to accomplish within the time frame of this RFP. A typical requirement is for such information to be provided for stockholders known to own beneficially five percent (5%) or more

of a corporation's securities. Will TELC amend this RFP requirement from one percent (1%) to five percent (5%)?

In response to the question, the TELC has revised the percentage of beneficial ownership for criminal history and financial credit disclosure of publicly held Vendor stockholders to five percent (5%) in Section 4.5 of each RFP.

7. Section 4.6 – Disclosure of Litigation, page 16.

We interpret this section to require disclosure of open, pending litigation. Is this correct?

Section 4.6 of the RFP has been amended by deleting such Section 4.6 in its entirety and replacing it with the following:

4.6 DISCLOSURES REQUIRED BY ATTACHMENT C.

The disclosure required in Attachment C hereto is a continuing obligation. Prior to the award of the Contract, a Vendor must submit to the TELC written updates to such disclosure promptly after such Vendor becomes aware of any changes to such information. The Successful Vendor must continue to update such information throughout the term of the Contract.

With respect to disclosure requirements regarding civil and criminal matters, see Sections 10, 11 and 12 of Attachment C to the RFP. Attachment C requests information required by statute, including the disclosure of some previously resolved litigation matters. Unless otherwise specified, no time period is applicable. Regarding civil litigation for matters other than bankruptcy, insolvency and reorganization, disclosure is limited to pending litigation.

8. Section 4.8 – Financial Soundness, page 16.

If a Vendor is a subsidiary company, will audited consolidated financial statements of the Vendor's parent company fulfill this RFP requirement?

Yes.

9. Section 5.1.1.1 On-line Lottery Games and Operating System, page 21.

How much space will TELC provide to the Successful Vendor for the primary data center at TELC's headquarters?

To be determined.

10. Section 5.1.1.1 On-line Lottery Games and Operating System, page 21.

Will TELC provide infrastructure requirements (Security system, generator, UPS, etc.) if the primary data center is located at TELC headquarters?

The Vendor must provide a generator and UPS in order to insure that the system is operative at all times. The TELC will provide the security system.

11. Section 5.1.1.1 On-line Lottery Games and Operating System, page 21.

How much will TELC charge vendors if the primary data center is at TELC headquarters?

To be determined.

12. Section 5.1.1.1 On-line Lottery Games and Operating System, page 21.

If the TELC does not approve the Vendor's proposed back-up site, will TELC accept an adjustment to the Vendor's cost proposal (increase or decrease) caused by TELC's non-approval of the proposed back-up site?

No.

13. Section 5.1.2.1 Retailer Operated Terminals, page 24.

The fifth paragraph (not including the bulleted items) in this section states that terminals proposed may be varied to include high volume and mid-range models. The third paragraph in Section 5.1.1.1 on page 21 specifies that the system at start-up must support an anticipated load of 4,000 full service online retailer terminals and growth capacity to support up to 10,000 full service retailer terminals plus 3,000 mid-range terminals, plus 3,000 color monitors. Can mid-range terminals and color monitors be provided for start-up?

See Answer 15a to Vendor A's Questions.

14. Section 5.1.4 – Online System software and development support, page 25.

Will a single programmer capable of supporting both the gaming system and lottery back-office management system fulfill this RFP requirement?

No.

15. Section 5.1.6 – Internal Control Systems, page 28.

Does the Lottery require a third party to provide the ICS software?

Yes.

If so, should the cost of the ICS software be included as part of the Vendor's base price?

Yes.

16. Section 5.2.1 – Retailer Training, page 28.

For the initial training of retailers during the implementation of the lottery, will TELC accept on-site training of retailers in combination with classroom training?

No.

17. Section 5.2.5 – Equipment Maintenance and Supplies, page 30.

How many terminals are to be supplied by the Vendor at start-up and included in the base price?

See Answer 15a to Vendor A's Questions.

Are the 3,000 color monitors and 3,000 mid-range terminals to be supplied by the Vendor at start-up? If not, when does the Lottery anticipate this equipment to be supplied?

This equipment must be available as requested by the TELC and will be requested as needed.

18. Section 5.3 – Security Plan, page 31.

Is the Third Party Controls reviewed required annually, or only prior to start-up?

Annually.

19. Section 6.2 – Pricing Formula, page 34.

Will the TELC amend the reference to “February 10, 2004” to “April 10, 2004” to provide the Successful Vendor with seven complete years of compensation?

No.

20.

No Question 20 provided.

21. Section 6.5 – Program Enhancements, page 34.

The cost proposal seems to be an inappropriate place to describe the Vendor’s solution for providing portable terminals and thermal branding for all image readers. How will TELC include these items in the technical evaluation if they are described in the cost proposal?

Should these items be described in the Vendor’s response to RFP section 5.1.2.1 rather than 6.5?

We apologize for the typographical error. Yes.

VENDOR C

1.10 Right to Use Information in the Proposal

Will the TELC amend this provision to assure Vendors that the TELC's rights to use the submitted materials will be subject to Vendors' rights to preserve their trade secrets and other confidential and proprietary information, and that, provided Vendors appropriately label their submitted materials, the TELC will not use such materials in any manner that would compromise Vendors' rights therein?

The TELC will make reasonable efforts to protect trade secrets and proprietary information supplied by the Vendors.

2.5 Proposal Submission

Does the TELC require one (1) original *and* ten copies of the *cost* portion required by Part VI?

See Answer 1 to Vendor B's Online RFP Questions.

2.11.4 Evaluation Categories

Section 1.05(b)(ii)(E) of the TELC's Procurement Regulations requires that RFPs for "Major Procurement Contracts" set forth "a description of the factors that will be used to evaluate the proposals." Section 2.11.4 of the RFP identifies some of the evaluation factors the TELC's Evaluation Committee will use in evaluating Proposals for this procurement and promises the public release of evaluation criteria prior to opening Proposals.

The overall quality, focus and responsiveness of Vendors' Proposals would be enhanced by the TELC's disclosure prior to the due date for Proposals of (i) all of the evaluation factors to be utilized and (ii) the relative importance of those factors (e.g., the weighting of each non-cost factor and the combined percentage weight of all non-cost factors vs. the percentage weight for cost) in determining which Proposal best meets the TELC's stated objectives. Will the TELC amend the RFP by providing this additional information to facilitate the preparation of Proposals?

No.

3.9 Ownership of Materials and Rights of Use

The first paragraph contains language that grants the TELC exclusive ownership rights in all products, etc. provided by a Vendor under the Contract; however, paragraph 3 states that a Vendor retains ownership of proprietary materials but grants to the TELC a license therein. Will the TELC amend the first paragraph of this Section to make the TELC's ownership subject to the rights retained by a Vendor as described in the third paragraph?

No.

In paragraph 3 of this Section, the TELC states its intent to be able to use the systems, software and purchased equipment "after the expiration or termination of the Contract," including "access

to the source code, operational diagrams and other proprietary materials.” Such right to use is normally limited to terminations of the Contract as a result of a Vendor’s insolvency or other breach. Will the TELC amend this paragraph to delete its right to use a Vendor’s systems beyond the Contract term except upon terms mutually agreed to between the parties?

No.

3.12 Intellectual Property Indemnification

This Section requires a Vendor to indemnify the TELC against the consequences of the TELC’s “disclosure” of copyrighted or non-copyrighted materials. Due to the fact that the Successful Vendor will lack control over the TELC’s decisions to disclose protected materials, will the TELC delete the word “disclose” from this Section?

No.

3.18 Bonds and Insurance

This Section states that the bonding company and insurer must be “duly licensed, admitted **and** authorized to transact business in the State of Tennessee.” Some carriers may be “approved non admitted.” Would the TELC change this section to read as follows:

“duly licensed, admitted **or** authorized to transact business in the State of Tennessee”

No.

3.19 Performance Bond

1. It is a requirement of the surety (bonding) industry that the performance bond be renewed on an annual basis. Will the TELC amend the RFP to reflect the performance bond is annually renewable?

The Successful Vendor must maintain one of these permissible types of performance collateral throughout the term of the Contract.

2. Given recent world events (9/11, Enron, WorldCom, etc.) surety (bonding) companies are now requiring the following language be inserted into the RFP:

“Neither non-renewal by the issuer of the performance bond, nor the failure of the Successful Vendor to renew the performance bond shall constitute a loss to the TELC recoverable under the current performance bond.”

Will the TELC amend Section 3.19 Performance Bond to include the above language?

The TELC will accept surety bonds containing terms and provisions that are commercially reasonable and that are customary in the industry.

3. This Section states: “The amount of the performance bond or the above noted securities may be reduced after the 3rd year of the Contract term, at the sole discretion of the

TELC.” Under what circumstances would the TELC reduce the performance bond amount after the 3rd year of the Contract?

As stated in the RFP, the TELC reserves the right to reduce the amount of the performance bond (or other performance collateral) after the third year of the Contract in its sole discretion.

3.20 Insurance

Regarding the last bullet under Insurance; coverages are not clearly defined and we would request the deletion of this clause as the requirement could become commercially unavailable, not feasible or later be determined to be cost prohibitive. Would the TELC delete the last bullet under this Section which states “such other types and amounts of insurance as the TELC shall from time to time reasonably require?”

Yes. The RFP has been amended by deleting the following from Section 3.20 thereof: “ • Such other types and amounts of insurance as the TELC shall from time to time reasonably require.”

4.5 Background Information

Section 4.5 requires that the Vendor and certain other individuals submit Attachment D and Attachment E. If the Vendor is a corporation which is a wholly-owned subsidiary of another corporation, would you please confirm our understanding that the following entities and persons need to prepare those attachments:

(i) The Vendor and its officers and directors must submit Attachment D; and

(ii) The Vendor’s officers and directors must submit Attachment E. Since this form is clearly intended to be completed by a natural person, we presume that a corporate entity need not complete Attachment E.

In addition, Section 4.5 requests “the same information for a parent corporation of such Vendor corporation if the parent corporation’s shares are publicly traded.” Would the Lottery please explain the meaning of this phrase and what specific information and forms are required to be submitted by the Vendor’s parent corporation?

The Vendor and its officers and directors must submit both Attachments D and E. The attachments have been revised to reflect that they are also to be completed by corporate or other entities.

If a Vendor is a direct or indirect subsidiary of a corporation whose shares are publicly traded, then the parent corporation is also required to submit Attachments D and E for any stockholder owning 5% or more beneficial interest in the parent corporation. If the Vendor is publicly held, its stockholders known by the Vendor to have a 5% or greater beneficial interest in the Vendor must complete both attachments. All stockholders of Vendors that are not publicly traded, and all stockholders of parent corporations that are not publicly traded, must submit both Attachments D and E.

The RFPs are hereby revised by substituting the following in lieu of the former clause (i) to the third paragraph under Section 4.5:

(i) if the Vendor is a corporation, the officers, directors and each stockholder of such corporation (or, in the case of a publicly-traded corporation, only those stockholders known to the corporation to own beneficially five percent (5%) or more of such corporation's securities), as well as the same information for a parent corporation of such Vendor corporation (although information regarding stockholders of parent corporations need only be provided by those stockholders known to the corporation to own beneficially five percent (5%) or more of the corporation's securities if the parent corporation's shares are publicly traded);... .

4.6 Disclosure of Litigation

Section 4.6 asks the Vendor to provide a complete disclosure of any civil litigation involving the Vendor. Would the TELC please indicate whether it is requesting a list of currently pending litigation? If the TELC is requesting information about previously resolved litigation as well, we respectfully suggest that a time period be specified, such as all litigation resolved during the past five (5) years.

See Answer 7 to Vendor B's Online RFP Questions.

5.1.3 Gaming System Communications Network

The RFP states that "The TELC reserves the right to assume the network at any time during the Contract period."

The procurement of wireless networks has become a common industry practice, which requires capital expenditure on the part of the Vendor. Can we assume that should the TELC exercise its right to assume the network, it will provide fair and reasonable compensation to the Vendor?

Yes. Fair and reasonable compensation as determined by the TELC.

5.1.6 Internal Control Systems

Based on the wording contained in the RFP, we assume the TELC will secure an ICS vendor outside the scope of this RFP. Is this assumption correct?

No, this must be provided by the Successful Vendor.

5.2.5 Equipment Maintenance and Supplies

Will the TELC please define "metropolitan areas" and "non-metropolitan areas?"

Metropolitan areas will include the Tennessee counties included in the following metropolitan statistical areas ("MSAs"), as established by the United States Census Bureau:

- 1. Chattanooga, TN MSA and Cleveland, TN MSA;*

2. *Johnson City, TN MSA and Kingsport-Bristol, TN MSA;*
3. *Knoxville, TN MSA;*
4. *Memphis, TN MSA; and*
5. *Nashville-Davidson-Murfreesboro, TN MSA.*

VENDOR D

1. Section 1.1 - Introduction

- A. In Section 1.1 - Introduction, it states that the Lottery plans to employ approximately 300 people statewide. For the purpose of estimating the number of personnel to be trained in the various capacities in which they will serve the Lottery, i.e., Customer Sales Reps, Management Terminal users, etc., will the TELC provide an organization chart of the planned Lottery organization?

This information is currently unavailable.

- B. The TELC expects the retailer base to be approximately 4,000 at start-up. This may be expanded to 10,000 during the term of the contract. Thereafter it may be further expanded based on subsequent developments and sales. Is it true that the vendor commitment is capped at 10,000 during this contract?

See Section 5.1.1.1 of the RFP.

- C. Will the TELC provide an estimated expansion schedule showing the number of terminals and related equipment to be added during what periods of time?

This information is currently unavailable.

2. Section 2.11.4 - Evaluation Categories

In Section 2.11.4 - Evaluation Categories, it states that the criteria for evaluation of Proposals and information regarding the Committee will be released publicly prior to the opening of Proposals. Is the Lottery able to be more specific as to when this information will be released within the evaluation process, and will it include the weights used for evaluating the various categories?

See Answer 3 to Vendor A's Questions.

3. Relative to: Section's 3.6 and 4.5, and the requirement for Background Investigations

Please specify who is responsible for the costs of the background investigations. If the vendor is responsible, will the TELC provide a cap for such expenses? Is the TELC able to sign a contract prior to the completion of the background investigations?

The TELC is responsible for these costs. The Contract will not be effective until completion of the background investigations.

4. Section 4.6 - Disclosure of Litigation

Is this requirement only applicable to open cases, or does it apply to closed/settled cases as well? If it does apply to closed/settled cases what is the period of time for which items should be disclosed (i.e. the past 3 years, 5 years etc.)?

See Answer 7 to Vendor B's Online RFP Questions.

5. Section 5.1.1.1 - Online Lottery Games and Operating System

In Section 5.1.1.1 - Online Lottery Games and Operating System, it states that the Vendor may be required to lease the space for the data center from the TELC at its cost. Is there any additional space available to the Vendor that may be leased for other lottery-related activities, such as warehousing or terminal bench repair?

To be determined.

Also, how many square feet are available, and what is the cost per square foot?

To be determined.

6. Section 5.1.1.2 - Prize Validation and Payment Requirements

Would the Lottery confirm that the requirement stated in the second bullet that Internal Control winner verification be provided “prior to setting any online draw to a ‘pay’ status”, applies only to jackpot games?

This is correct; however, for all games the liability amount must be verified as part of the nightly ICS verification process.

7. Section 5.2.10 - Electronic Displays

Will the Lottery or the Vendor be responsible for generating the messages to be presented on these units?

The TELC will compose the messages; the Successful Vendor will distribute them through the system.

8. Section 5.3 - Security Plan

The RFP requires a numerically sequenced console log file to be provided on a daily or more frequent basis. Will the TELC accept an electronic solution that is equivalent or better than the hard-copy requirement?

Yes.

9. Section 5.3 - Security Plan

Section 5.3 requires the Vendor to have a Statement of Auditing Standards (SAS) No. 7 Third Party Controls Review performed...We assume that this was a typographical error, and should be SAS 70. Please clarify.

We apologize for the typographical error. The reference should be to SAS 70.

10. Part VI - Cost Proposal

A. Does the Lottery have a form that they want completed for pricing?

No.

B. How should the vendor propose options such as In-lane ticket sales equipment?

See Sec. 6.5 of the RFP.

11. General Question

Does the Lottery have any desire for, or interest in, ticket checkers or validation only equipment?

See Sec. 6.5 of the RFP.

II. INSTANT TICKET LOTTERY GAME SERVICES RFP

VENDOR B

1. Section 2.5 – Proposal Submission, page 4.

Are Vendors to submit ten (10) copies of the Cost Proposal?

See Answer 1 to Vendor B's Online RFP Questions.

2. Sections 3.6 and 4.5 – Background Investigations, pages 9 and 15.

Is the TELC or the Successful Vendor responsible for the cost of Background Investigations? If the Successful Vendor is responsible for these costs, please provide an estimate of such costs.

The TELC will pay this cost.

3. Section 3.9 Ownership of Materials and Rights of Use, page 10.

Will the TELC please confirm that the Successful Vendor will own all intellectual property rights to the systems, programs, source code and other information proprietary to it not developed specifically for or on behalf of the TELC?

Yes.

Also, The intellectual property rights resident in the systems and equipment to be provided to the TELC forms the core of the Successful Vendor's business. To grant so broad a license as requested in the third paragraph of this section requires the Successful Vendor to relinquish control of such intellectual property rights and, therefore, its business. Will the TELC be willing to delete the following:

“and the Successful Vendor irrevocably grants the TELC the necessary rights and authority to modify such proprietary materials and to create derivative works in any manner the TELC deems necessary. It is the intent of the TELC that it have control over all such proprietary materials in a manner consistent with ownership thereof.”

No.

4. Section 4.5 – Background Investigation, page 15.

Requiring “Authorization for Investigation” and “Consent Form” to be completed by stockholders known to own beneficially one percent (1%) or more of a corporation's securities is an extremely difficult requirement for corporations to accomplish within the time frame of this RFP. A typical requirement is for such information to be provided for stockholders known to own beneficially five percent (5%) or more of a corporation's securities. Will TELC amend this RFP requirement from one percent (1%) to five percent (5%)?

In response to the question, the TELC has revised the percentage of beneficial ownership for criminal history disclosure of publicly held Vendor stockholders to five percent (5%) in Section 4.5 of each RFP.

5. Section 4.6 – Disclosure of Litigation, page 16.

We interpret this section to require disclosure of open, pending litigation. Is this correct?

Section 4.6 of the RFP has been amended by deleting such Section 4.6 in its entirety and replacing it with the following:

4.6 DISCLOSURES REQUIRED BY ATTACHMENT C.

The disclosure required in Attachment C hereto is a continuing obligation. Prior to the award of the Contract, a Vendor must submit to the TELC written updates to such disclosure promptly after such Vendor becomes aware of any changes to such information. The Successful Vendor must continue to update such information throughout the term of the Contract.

With respect to disclosure requirements regarding civil and criminal matters, see Sections 10, 11 and 12 of Attachment C to the RFP. Attachment C requests information required by statute, including the disclosure of some previously resolved litigation matters. Unless otherwise specified, no time period is applicable. Regarding civil litigation for matters other than bankruptcy, insolvency and reorganization, disclosure is limited to pending litigation.

6. Section 4.8 – Financial Soundness, page 16.

If a Vendor is a subsidiary company, will audited consolidated financial statements of the Vendor's parent company fulfill this RFP requirement?

Yes.

7. Section 5.5 – Warehousing of New Tickets, page 24.

Is the dedicated, secure office space for at least three (3) TELC representatives in addition to the 10,000 square feet of secured space for use by TELC?

Yes.

8. Section 5.15 – Instant Ticket Vending Machines, page 27.

We interpret this section to allow refurbished LED message display units, however, the sixteen (16)-bin instant ticket vending machines must be new. Is this correct?

Yes.

9. Sample Instant Tickets

What are the TELC's sample ticket requirements and specifications?

Oversize samples will show the uncovered ticket art on both sides, must be approximately 6" x 12" and be printed on 10 point card stock. The required quantity will be equal to the retailer base plus 1,000.

VENDOR C

1.10 Right to Use Information in the Proposal

Will the TELC amend this provision to assure Vendors that the TELC's rights to use the submitted materials will be subject to Vendors' rights to preserve their trade secrets and other confidential and proprietary information, and that, provided Vendors appropriately label their submitted materials, the TELC will not use such materials in any manner that would compromise Vendors' rights therein?

The TELC will make reasonable efforts to protect trade secrets and proprietary information supplied by Vendors.

2.5 Proposal Submission

Does the TELC require one (1) original *and* ten copies of the *cost* portion required by Part VI?

See Answer 1 to Vendor B's Online RFP Questions.

2.11.4 Evaluation Categories

Section 1.05(b)(ii)(E) of the TELC's Procurement Regulations requires that RFPs for "Major Procurement Contracts" set forth "a description of the factors that will be used to evaluate the proposals." Section 2.11.4 of the RFP identifies some of the evaluation factors the TELC's Evaluation Committee will use in evaluating Proposals for this procurement and promises the public release of evaluation criteria prior to opening Proposals.

The overall quality, focus and responsiveness of Vendors' Proposals would be enhanced by the TELC's disclosure prior to the due date for Proposals of (i) all of the evaluation factors to be utilized and (ii) the relative importance of those factors (e.g., the weighting of each non-cost factor and the combined percentage weight of all non-cost factors vs. the percentage weight for cost) in determining which Proposal best meets the TELC's stated objectives. Will the TELC amend the RFP by providing this additional information to facilitate the preparation of Proposals?

No.

3.9 Ownership of Materials and Rights of Use

The first paragraph contains language that grants the TELC exclusive ownership rights in all products, etc. provided by a Vendor under the Contract; however, paragraph 3 states that a Vendor retains ownership of proprietary materials but grants to the TELC a license therein. Will the TELC amend the first paragraph of this Section to make the TELC's ownership subject to the rights retained by a Vendor as described in the third paragraph?

No.

In paragraph 3 of this Section, the TELC states its intent to be able to use the systems, software and purchased equipment "after the expiration or termination of the Contract," including "access

to the source code, operational diagrams and other proprietary materials.” Such right to use is normally limited to terminations of the Contract as a result of a Vendor’s insolvency or other breach. Will the TELC amend this paragraph to delete its right to use a Vendor’s systems beyond the Contract term except upon terms mutually agreed to between the parties?

No.

3.12 Intellectual Property Indemnification

This Section requires a Vendor to indemnify the TELC against the consequences of the TELC’s “disclosure” of copyrighted or non-copyrighted materials. Due to the fact that the Successful Vendor will lack control over the TELC’s decisions to disclose protected materials, will the TELC delete the word “disclose” from this Section?

No.

3.18 Bonds and Insurance

This Section states that the bonding company and insurer must be “duly licensed, admitted **and** authorized to transact business in the State of Tennessee.” Some carriers may be “approved non admitted.” Would the TELC change this section to read as follows:

“...duly licensed, admitted **or** authorized to transact business in the State of Tennessee.”

No.

3.19 Performance Bond

1. It is a requirement of the surety (bonding) industry that the performance bond be renewed on an annual basis. Will the TELC amend the RFP to reflect the performance bond is annually renewable?

The Successful Vendor must maintain one of these permissible types of performance collateral throughout the term of the Contract.

2. Given recent world events (9/11, Enron, WorldCom, etc.) surety (bonding) companies are now requiring the following language be inserted into the RFP:

“Neither non-renewal by the issuer of the performance bond, nor the failure of the Successful Vendor to renew the performance bond shall constitute a loss to the TELC recoverable under the current performance bond.”

Will the TELC amend Section 3.19 Performance Bond to include the above language?

The TELC will accept surety bonds containing terms and provisions that are commercially reasonable and that are customary in the industry.

3. This Section states “The amount of the performance bond or the above noted securities may be reduced after the 3rd year of the Contract term, at the sole discretion of the

TELC.” Simply, my question is under what circumstances would the TELC reduce the performance bond amount after the 3rd year of the Contract?

As stated in the RFP, the TELC reserves the right to reduce the amount of the performance bond (or other performance collateral) after the third year of the Contract in its sole discretion.

3.20 Insurance

1. There could be some question as to the required insurance limits. Therefore would the TELC amend the insurance limits to read “**in an amount of**” in lieu of “**in an amount of at least?**”

No.

2. To clarify that over-redemption is related to an error or omission, would the TELC amend the errors and omissions requirement to add “**as a result of an error or omission**” and delete the word “**insurance**” as follows:

“Errors and omissions insurance, including over-redemption **as a result of an error or omission** in the amount...”

No.

3. Regarding the last bullet under Insurance; coverages are not clearly defined and we would request the deletion of this clause as the requirement could become commercially unavailable, not feasible or later be determined to be cost prohibitive. Would the TELC delete the last bullet under this section which states “such other types and amounts of insurance as the TELC shall from time to time reasonably require?”

Yes. The RFP has been amended by deleting the following from Section 3.20 thereof: “ • Such other types and amounts of insurance as the TELC shall from time to time reasonably require.”

4.5 Background Information

Section 4.5 requires that the Vendor and certain other individuals submit Attachment D and Attachment E. If the Vendor is a corporation which is a wholly-owned subsidiary of another corporation, would you please confirm our understanding that the following entities and persons need to prepare those attachments:

- (i) The Vendor and its officers and directors must submit Attachment D; and
- (ii) The Vendor’s officers and directors must submit Attachment E. Since this form is clearly intended to be completed by a natural person, we presume that a corporate entity need not complete Attachment E.

In addition, Section 4.5 requests “the same information for a parent corporation of such Vendor corporation if the parent corporation’s shares are publicly traded.” Would the Lottery please explain the meaning of this phrase and what specific information and forms are required to be submitted by the Vendor’s parent corporation?

See Answer 4.5 to Vendor C’s Online RFP Questions.

4.6 Disclosure of Litigation

Section 4.6 asks the Vendor to provide a complete disclosure of any civil litigation involving the Vendor. Would the TELC please indicate whether it is requesting a list of currently pending litigation? If the TELC is requesting information about previously resolved litigation as well, we respectfully suggest that a time period be specified, such as all litigation resolved during the past five (5) years.

See Answer 7 to Vendor B’s Online RFP Questions.

VENDOR E

Section 1.1 -- In this section the TELC indicates it will select a single Vendor for instant ticket services. In Section 5.7, the TELC indicates the successful vendor may be required to distribute up to four instant games from other vendors. How does the TELC intend to procure these four additional games?

The TELC has reserved the right to order up to four games each year from a Vendor which provides TELC with an innovative or proprietary product.

Section 4.6 -- Could the TELC change this requirement to indicate that litigation must be disclosed to the TELC in writing within five BUSINESS days after it is SERVED.

See Answer 5 to Vendor B's Instant Ticket RFP Questions.

Section 4.13.4 -- Does the TELC require bidders to submit EBO Form D? It appears to be a post-award document.

No. EBO Form D is a post-award document.

Attachment, Clause 5, Point C -- Is it sufficient to provide evidence that a vendor has applied for authorization to conduct business in the State of Tennessee, if authorization has not been granted by the proposal submission date?

A Vendor must be qualified to do business in Tennessee prior to Proposal submission.

Attachment C, Clause 9 -- Could the TELC attach a time period to the first part of this request (licenses, contracts, penalties)? For example, vendors are required to provide this information for the past two years.

This requirement is contained in T.C.A. § 4-51-113(a)(4). As no time limit is provided in the statute, the TELC is unable to limit the time period for which this information is required.

Attachment C, Clause 17 -- Does this requirement include similar products and services provided to other lotteries?

The provision of lottery products and services to other state lotteries may, but does not necessarily, represent a conflict of interest.

VENDOR F

1. Page 7, Section 2.11.4: How will the TELC weigh each factor in the evaluation categories?

This information will be made available on the TELC's website immediately prior to the opening of the Proposals.

2. Page 7, Section 2.11.4: Will the TELC fax or e-mail the evaluation criteria and information regarding the committee that will be announced prior to opening the submitted proposals?

See answer 1, above.

3. Page 25, Section 5.7: How will the TELC decide what four games will be given to another vendor?

See Answer 1.1 to Vendor E's Instant Ticket RFP Questions.

4. Page 27, Section 5.16: What is the criteria for becoming a lottery retailer?

The only information available at this time is in the statute. See 2003 Tenn. Pub. Acts. Ch. 297, codified at T.C.A. §§ 4-51-101 et seq.

5. Page 26, Section 5.12: What will the Lottery's advertising budget be for instant games?

This information is currently unavailable.

6. Page 26, Section 5.12: Will the Lottery have a dedicated Instant Product Manager?

This information is currently unavailable.

7. Will the TELC provide a j-peg of the Lottery's logo?

Yes, when available.